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MAR 16 2005

In re Application of : **OFFICE OF PETITIONS**
Rizzo, et al. :
Filed: August 21, 2003 : ON PETITION
Application No. 10/645,450 :
Atty. Dkt. No.: DRIZZO 3.0-001 :
RE

This decision is in response to the "PETITION" filed April 6, 2004 and supplemented June 8, 2004 in response to the Notice of Incomplete Reissue Application ("Notice") mailed February 11, 2004 to accord the above-identified application a filing date of August 21, 2003.

The application was filed August 21, 2003. The Notice indicated, *inter alia*, that the application had not been accorded a filing date but the application appeared to have been submitted without a specification as prescribed by 35 USC 112.


In response, the present petition was filed wherein petitioner argues that the application as deposited included, *inter alia*, a copy of U.S. Patent No. 6,470,338, consisting of 18 pages. Petitioner has included as proof of mailing and proof of receipt of the specification a return postcard date stamped by the Office on August 21, 2003.

The original specification submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of August 21, 2003 is GRANTED.

Since the original specification cannot be located in the Office, a copy of U.S. Patent No. 6,470,338 will be used for examination purposes.

No petition fee is due in connection with this matter. This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of August 21, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

A handwritten signature in black ink, appearing to read 'Alesia M. Brown'.

Alesia M. Brown
Petitions Attorney
Office of Petitions